

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DEL MONTE FRESH PRODUCE
INTERNATIONAL, et al.

13-cv-07632-RBK

Plaintiffs,

vs.

M/V GREEN BRAZIL, et al.,

Defendants

**DEFENDANTS' EMERGENCY MOTION TO
ENJOIN IMMINENT SPOILIATION OF EVIDENCE BY THE PLAINTIFFS**

Defendant Green Shipping AS, as claimant of defendant vessel M/V GREEN BRAZIL within the meaning of Rule (C)(6)(a) of the Supplemental Rules for Certain Admiralty and Maritime Claims, by and through its undersigned counsel, hereby respectfully requests the Court to issue an order enjoining the plaintiffs from destroying evidence without affording the defendants the opportunity of inspection and say as follows:

1. The plaintiffs' in this maritime action seek to recover \$1.5 Million in damages allegedly incurred as a result of damage to a cargo of 170,989 cartons of bananas and melons transported aboard the vessel M/V GREEN BRAZIL from Guatemala to Gloucester, New Jersey. The cargo was discharged from the vessel at Gloucester beginning on or about December 16, 2013.

2. The plaintiffs have informed defendant's counsel that they intend to destroy the contents of 30 refrigerated shipping containers transported aboard the vessel (said to consist of

approximately 540 pallets of bananas) on Thursday, December 26, 2013, and have offered the defendant's surveyors and/or experts any opportunity to inspect the condition of the bananas prior to destruction.

3. The defendant will be deprived of the ability to inspect the cargo to determine its condition and the possible causes of any alleged damage if the cargo is destroyed without the opportunity for inspection.

Defendant Green Shipping AS therefore respectfully requests the Court to enter an order in the form submitted herewith, enjoining the plaintiffs from destroying the cargo and requiring the plaintiffs to make the cargo available for inspection by the defendant's surveyors and/or experts.

Respectfully Submitted,

PALMER BIEZUP & HENDERSON LLP

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